IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL IZELL SEALS,	No. C 04-1569 SBA (PR)
Plaintiff, v.	NOTICE REGARDING INABILITY TO SERVE DEFENDANTS EFESTIONE AND RIEDLE
OFFICER JOHN RUSSELL, et al.,	
Defendants.	

Defendants Teresa Efestione and Alice Riedle have not been served in this action. The United States Marshal's Office has informed the Court that service could not be completed on Defendants Efestione and Riedle at the Lake County Jail because they are no longer employed at the jail.

Because Plaintiff is incarcerated and claims that he has been having trouble communicating with the contact person at the Lake County Jail, the Clerk of the Court is directed to send a letter to: Kathy Ferguson, Director of Human Resources for the County of Lake, 255 N. Forbes Street, Lake Port, CA 95453. The Clerk shall inquire about whether she can furnish the Court with the current addresses of Defendants Efestione and Riedle, who worked at the Lake County Jail from April to August 2003. In the event that Director Ferguson is unable to furnish the Court with the current addresses of Defendants Efestione and Riedle, Plaintiff is directed to continue his attempts to locate Defendants Efestione and Riedle.

While Plaintiff may rely on service by the United States Marshal, "a plaintiff may not remain silent and do nothing to effectuate such service. At a minimum, a plaintiff should request service upon the appropriate defendant and attempt to remedy any apparent defects of which [he] has knowledge." Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). If the marshal is unable to effectuate service and the plaintiff is informed, the plaintiff must seek to remedy the situation or face dismissal of the claims regarding that defendant under Federal Rule of Civil

Procedure 4(m). See Fed. R. Civ. P. 4(m) (If service of the summons and complaint is not made
upon a defendant in 120 days after the filing of the complaint, the action must be dismissed
without prejudice as to that defendant absent a showing of "good cause."); see also Walker v.
Sumner, 14 F.3d 1415, 1421-22 (9th Cir. 1994) (prisoner failed to show cause why prison official
should not be dismissed under Rule 4(m) because prisoner did not prove that he provided
marshal with sufficient information to serve official).

No later than thirty (30) days from the date of this Order, Plaintiff must provide the Court with the current addresses for Defendants Efestione and Riedle. Plaintiff should review the federal discovery rules, Rules 26-37 of the Federal Rules of Civil Procedure, for guidance about how to determine the current addresses of Defendants Efestione and Riedle.

If Director Ferguson is unable to furnish the Court with the current addresses of Defendants Efestione and Riedle, and if Plaintiff fails to provide the Court with their current addresses within the thirty-day deadline, all claims against Defendants Efestione and Riedle will be dismissed without prejudice under Rule 4(m).

IT IS SO ORDERED.

DATED: 11/29/07

SAUNDRA BROWN ARMSTRO United States District Judge

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1 UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF CALIFORNIA 3 4 SEALS, Case Number: CV04-01569 SBA 5 Plaintiff, CERTIFICATE OF SERVICE 6 v. 7 RUSSELL et al, 8 Defendant. 9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District 10 Court, Northern District of California. 11 That on November 30, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by 12 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office. 13 14 15 16 Michael Izell Seals V77488 California State Prison - San Quentin San Quentin, CA 94974 17 Dated: November 30, 2007 18 Richard W. Wieking, Clerk By: LISA R CLARK, Deputy Clerk 19 20 21 22 23 24 25